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STATEMENT OF

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BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

JUNE 24, 1980

ON

LEGISLATION TO PROSCRIBE THE UNAUTHORIZED DISCLOSURE
OF INFORMATION IDENTIFYING CERTAIN INDIVIDUALS
ENGAGED OR ASSISTING IN FOREIGN INTELLIGENCE ACTIVITIES

MR. CHAIRMAN:

I WANT TO THANK YOU AND THE OTHER DISTINGUISHED MEMBERS OF THIS COMMITTEE FOR THE OPPORTUNITY TO DISCUSS LEGISLATION WHICH I CONSIDER TO BE URGENTLY NEEDED AND VITAL TO THE FUTURE SUCCESS OF OUR COUNTRY'S FOREIGN INTELLIGENCE COLLECTION EFFORTS.

I START THIS MORNING FROM THE PREMISE THAT OUR EFFORTS TO COLLECT INFORMATION ABOUT THE PLANS AND INTENTIONS OF OUR POTENTIAL ADVERSARIES CANNOT BE EFFECTIVE IN A CLIMATE THAT CONDONES REVELATION OF A CENTRAL MEANS BY WHICH THOSE EFFORTS ARE CONDUCTED. THE IMPUNITY WITH WHICH MISGUIDED INDIVIDUALS CAN DISCLOSE THE IDENTITIES OF OUR UNDERCOVER OFFICERS AND EMPLOYEES AND OUR FOREIGN AGENTS AND SOURCES HAS HAD A HARMFUL EFFECT ON OUR INTELLIGENCE PROGRAM. EQUALLY SIGNIFICANT IS THE INCREASED RISK AND DANGER SUCH DISCLOSURES POSE TO THE MEN AND WOMEN WHO ARE SERVING THE UNITED STATES IN DIFFICULT ASSIGNMENTS ABROAD. IT IS OUTRAGEOUS THAT DEDICATED PEOPLE ENGAGED OR ASSISTING IN U.S. FOREIGN INTELLIGENCE ACTIVITIES CAN BE ENDANGERED BY A FEW INDIVIDUALS WHOSE AVOWED PURPOSE IS TO DESTROY THE EFFECTIVENESS OF ACTIVITIES AND PROGRAMS DULY AUTHORIZED BY THE CONGRESS.

MR. CHAIRMAN, RECENT WORLD EVENTS HAVE DRAMATICALLY DEMONSTRATED

THE IMPORTANCE OF MAINTAINING A STRONG AND EFFECTIVE INTELLIGENCE APPARATUS. THE INTELLIGENCE COMMUNITY MUST HAVE BOTH THE MATERIAL AND THE HUMAN RESOURCES NEEDED TO ENHANCE ITS ABILITY TO MONITOR THE MILITARY ACTIVITIES OF OUR ADVERSARIES AND TO PROVIDE INSIGHTS INTO THE POLITICAL, ECONOMIC, AND SOCIAL FORCES WHICH WILL SHAPE WORLD AFFAIRS IN THE 1980's. IT IS PARTICULARLY IMPORTANT THAT EVERY EFFORT BE MADE TO PROTECT OUR INTELLIGENCE OFFICERS AND SOURCES. IT IS IMPERATIVE THAT THE CONGRESS CLEARLY AND FIRMLY DECLARE THAT THE UNAUTHORIZED DISCLOSURE OF THE IDENTITIES OF OUR INTELLIGENCE OFFICERS AND THOSE ALLIED IN OUR EFFORTS WILL NO LONGER BE TOLERATED. THE PRESIDENT HAS EXPRESSED HIS DETERMINATION TO "INCREASE OUR EFFORTS TO GUARD AGAINST DAMAGE TO OUR CRUCIAL INTELLIGENCE SOURCES AND OUR METHODS OF COLLECTION, WITHOUT IMPAIRING CIVIL AND CONSTITUTIONAL RIGHTS."

WE RECOGNIZE THAT LEGISLATION IN THIS AREA MUST BE CAREFULLY DRAWN; IT MUST SAFEGUARD THE NATION'S INTELLIGENCE CAPABILITIES WITHOUT IMPAIRING THE FIRST AMENDMENT RIGHTS OF AMERICANS OR INTERFERING WITH CONGRESSIONAL OVERSIGHT.

MR. CHAIRMAN, AT THIS POINT I WOULD LIKE TO MAKE CLEAR FOR

THE RECORD THE DAMAGE THAT IS BEING CAUSED BY THE UNAUTHORIZED

DISCLOSURE OF INTELLIGENCE IDENTITIES. I WOULD THEN LIKE TO

ADDRESS BRIEFLY SEVERAL FALLACIES AND MISCONCEPTIONS THAT HAVE

CREPT INTO PUBLIC DISCUSSION AND DEBATE ABOUT THE PROBLEM.

FINALLY, I WILL DEAL WITH THE ISSUE OF HOW A LEGISLATIVE REMEDY

CAN BE STRUCTURED SO AS TO DISCOURAGE THESE UNAUTHORIZED DISCLOSURES

WITHOUT IMPAIRING THE RIGHTS OF AMERICANS OR INTERFERING WITH

CONGRESSIONAL OVERSIGHT.

OBVIOUSLY, SECURITY CONSIDERATIONS PRECLUDE MY CONFIRMING OR
DENYING SPECIFIC INSTANCES OF PURPORTED IDENTIFICATION OF U.S.
INTELLIGENCE PERSONNEL. SUFFICE IT TO SAY THAT A SUBSTANTIAL
NUMBER OF THESE DISCLOSURES HAVE BEEN ACCURATE. THE DESTRUCTIVE
EFFECTS OF THESE DISCLOSURES HAVE BEEN VARIED AND WIDE-RANGING.

OUR RELATIONS WITH FOREIGN SOURCES OF INTELLIGENCE HAVE BEEN
IMPAIRED. SOURCES HAVE EVINCED INCREASED CONCERN FOR THEIR OWN
SAFETY. SOME ACTIVE SOURCES, AND INDIVIDUALS CONTEMPLATING
COOPERATION WITH THE UNITED STATES, HAVE TERMINATED OR REDUCED

THEIR CONTACT WITH US. SOURCES HAVE QUESTIONED HOW THE UNITED STATES GOVERNMENT CAN EXPECT ITS FRIENDS TO PROVIDE INFORMATION IN VIEW OF CONTINUING DISCLOSURES OF INFORMATION THAT MAY JEOPARDIZE THEIR CAREERS, LIBERTY AND VERY LIVES.

MANY FOREIGN INTELLIGENCE SERVICES WITH WHICH WE HAVE IMPORTANT LIAISON RELATIONSHIPS HAVE UNDERTAKEN REVIEWS OF THEIR RELATIONS WITH US. SOME IMMEDIATELY DISCERNIBLE RESULTS OF CONTINUING DISCLOSURES INCLUDE REDUCTION OF CONTACT AND REDUCED PASSAGE OF INFORMATION. IN TAKING THESE ACTIONS, SOME FOREIGN SERVICES HAVE EXPLICITLY CITED DISCLOSURES OF INTELLIGENCE IDENTITIES.

WE ARE INCREASINGLY BEING ASKED TO EXPLAIN HOW WE CAN GUARANTEE THE SAFETY OF INDIVIDUALS WHO COOPERATE WITH US WHEN WE CANNOT PROTECT OUR OWN OFFICERS FROM EXPOSURE. YOU CAN IMAGINE THE CHILLING EFFECT IT MUST HAVE ON A SOURCE TO ONE DAY DISCOVER THAT THE INDIVIDUAL WITH WHOM HE HAS BEEN IN CONTACT HAS BEEN OPENLY IDENTIFIED AS A CIA OFFICER.

THE PROFESSIONAL EFFECTIVENESS OF OFFICERS SO COMPROMISED IS SUBSTANTIALLY AND SOMETIMES IRREPARABLY DAMAGED. THEY MUST

REDUCE OR BREAK CONTACT WITH SENSITIVE COVERT SOURCES. CONTINUED

CONTACT MUST BE COUPLED WITH INCREASED DEFENSIVE MEASURES THAT ARE

INEVITABLY MORE COSTLY AND TIME-CONSUMING. SOME OFFICERS MUST BE

REMOVED FROM THEIR ASSIGNMENTS AND RETURNED FROM OVERSEAS AT

SUBSTANTIAL COST. YEARS OF IRREPLACEABLE AREA EXPERIENCE AND

LINGUISTIC SKILL ARE LOST. REASSIGNMENT MOBILITY OF THE COMPROMISED

OFFICER IS IMPAIRED. AS A RESULT, THE POOL OF EXPERIENCED CIA

OFFICERS IS BEING REDUCED. SUCH LOSSES ARE DEEPLY FELT IN VIEW OF

THE FACT THAT, IN COMPARISON WITH THE INTELLIGENCE SERVICES OF OUR

ADVERSARIES, WE ARE NOT A LARGE ORGANIZATION. REPLACEMENT OF

OFFICERS THUS COMPROMISED IS DIFFICULT AND, IN SOME CASES, IMPOSSIBLE.

ONCE AN OFFICER'S IDENTITY IS DISCLOSED, MOREOVER, COUNTERINTELLIGENCE

ANALYSIS BY ADVERSARY SERVICES ALLOWS THE OFFICER'S PREVIOUS

ASSIGNMENTS TO BE SCRUTINIZED, PRODUCING AN EXPANDED PATTERN OF

COMPROMISE THROUGH ASSOCIATION. SUCH DISCLOSURES ALSO SENSITIZE

HOSTILE SECURITY SERVICES AND FOREIGN POPULATIONS TO CIA PRESENCE,

MAKING OUR JOB FAR MORE DIFFICULT. FINALLY, SUCH DISCLOSURES CAN

PLACE INTELLIGENCE PERSONNEL AND THEIR FAMILIES IN PHYSICAL DANGER

FROM TERRORIST OR VIOLENCE-PRONE ORGANIZATIONS.

MR. CHAIRMAN, AT THE CONVENIENCE OF THE COMMITTEE, I AM PREPARED TO DISCUSS IN EXECUTIVE SESSION INDIVIDUAL CASES WHICH EXEMPLIFY THE DAMAGE DONE TO OUR INTELLIGENCE-GATHERING CAPABILITIES. THESE CASES SERVE TO ILLUSTRATE THE PERNICIOUS EFFECTS WHICH UNAUTHORIZED DISCLOSURES OF INTELLIGENCE IDENTITIES HAVE HAD IN PARTICULAR INSTANCES. BUT IT IS ALSO ESSENTIAL TO BEAR IN MIND THAT THE COLLECTION OF INTELLIGENCE IS SOMETHING OF AN ART. THE SUCCESS OF OUR OFFICERS OVERSEAS DEPENDS TO A VERY LARGE EXTENT ON INTANGIBLE PSYCHOLOGICAL AND HUMAN CHEMISTRY FACTORS, ON FEELINGS OF TRUST AND CONFIDENCE THAT HUMAN BEINGS ENGENDER IN EACH OTHER, AND ON ATMOSPHERE AND MILIEU. UNAUTHORIZED DISCLOSURE OF IDENTITIES INFORMATION DESTROYS THAT CHEMISTRY. WHILE WE CAN DOCUMENT A NUMBER OF SPECIFIC CASES, THE COMMITTEE MUST UNDERSTAND THAT THERE IS NO WAY TO DOCUMENT THE LOSS OF POTENTIAL SOURCES WHO FAIL TO CONTACT US BECAUSE OF LACK OF CONFIDENCE IN OUR ABILITY TO PROTECT THEIR IDENTITIES.

MR. CHAIRMAN, IN A TIME WHEN HUMAN SOURCES OF INTELLIGENCE

ARE OF CRITICAL IMPORTANCE, THERE CAN BE NO DOUBT THAT UNAUTHORIZED

DISCLOSURES OF IDENTITIES OF OUR OFFICERS, AGENTS, AND SOURCES

CONSTITUTE A SERIOUS THREAT TO OUR NATIONAL SECURITY. THE THREAT

MAY NOT BE AS DIRECT AND OBVIOUS AS THE DISCLOSURE OF MILITARY

CONTINGENCY PLANS OR INFORMATION ON WEAPONS SYSTEMS. IT IS

INDIRECT AND SOMETIMES HARD TO GRASP. BUT THE NET KEY RESULT

IS DAMAGED INTELLIGENCE CAPABILITY AND REDUCED NATIONAL SECURITY.

THOSE WHO SEEK TO DESTROY THE INTELLIGENCE CAPABILITIES OF

THE UNITED STATES, AND OTHERS, WHOSE OPPOSITION TO IDENTITIES

LEGISLATION IS BASED UPON GENUINE CONCERN ABOUT FIRST

AMENDMENT CONSIDERATIONS, HAVE PROPAGATED A NUMBER OF FALLACIES AND

MISCONCEPTIONS. UNDERSTANDABLY, SOME OF THESE HAVE FOUND THEIR WAY

INTO DISCUSSIONS OF IDENTITIES LEGISLATION BEFORE THE CONGRESS AND

IN THE PRESS.

ONE OF THESE FALLACIES IS THAT ACCURATE IDENTIFICATION OF CIA

PERSONNEL UNDER COVER CAN BE MADE MERELY BY CONSULTING PUBLICLY

AVAILABLE DOCUMENTS, LIKE THE STATE DEPARTMENT'S BIOGRAPHIC

REGISTER, AND THAT IDENTITIES LEGISLATION WOULD IMPINGE ON DISCUSSION

OF INFORMATION THAT IS IN THE PUBLIC DOMAIN. THIS IS ABSOLUTELY UNTRUE. THERE IS NO OFFICIAL UNCLASSIFIED LISTING ANYWHERE THAT IDENTIFIES UNDERCOVER CIA OFFICERS. THE INTELLIGENCE RELATIONSHIPS WHICH WE ARE SEEKING TO PROTECT ARE CLASSIFIED, AND A GREAT DEAL OF MONEY AND EFFORT IS EXPENDED TO MAINTAIN THEIR SECRECY. THE NAMES OF INDIVIDUALS WHO ARE INTELLIGENCE OFFICERS DO APPEAR IN CERTAIN UNCLASSIFIED DOCUMENTS, BUT THEY ARE NOT IDENTIFIED AS INTELLIGENCE OFFICERS. THIS IS CONSISTENT WITH OUR NEED TO ESTABLISH AND MAINTAIN COVER TO CONCEAL THE OFFICER'S INTELLIGENCE AFFILIATION. THE STATE DEPARTMENT BIOGRAPHIC REGISTER, AN UNCLASSIFIED DOCUMENT UNTIL 1975, AND SIMILAR DOCUMENTS CANNOT BE USED, WITHOUT ADDITIONAL SPECIALIZED KNOWLEDGE AND SUBSTANTIAL EFFORT, TO MAKE ACCURATE IDENTIFICATIONS OF INTELLIGENCE PERSONNEL. IT IS ONLY BECAUSE OF THE DISCLOSURE OF SENSITIVE INFORMATION BASED ON PRIVILEGED ACCESS AND MADE BY FAITHLESS GOVERNMENT EMPLOYEES WITH THE PURPOSE OF DAMAGING U.S. INTELLIGENCE EFFORTS, THAT THE PUBLIC HAS BECOME AWARE OF INDICATORS IN THESE DOCUMENTS THAT CAN SOMETIMES BE USED TO DISTINGUISH CIA OFFICERS. IT IS

NOTEWORTHY, HOWEVER, THAT THESE INDICATORS DO NOT INVARIABLY LEAD TO CORRECT IDENTIFICATIONS. THE SUBSTANTIAL NUMBER OF ACCURATE IDENTIFICATIONS THAT ARE BEING MADE BY THE COVERT ACTION INFORMATION BULLETIN LONG AFTER THE BIOGRAPHIC REGISTER CEASED TO BE PUBLICLY AVAILABLE INDICATES THAT THESE DISCLOSURES ARE BASED ON EXTENSIVE ADDITIONAL INVESTIGATION, PRESUMABLY USING MANY OF THE SAME TECHNIQUES AS ANY INTELLIGENCE SERVICE USES IN ITS COUNTERINTELLIGENCE EFFORTS.

ANOTHER FALLACY WIDELY CIRCULATED BY OPPONENTS OF IDENTITIES LEGISLATION IS THAT PROHIBITION OF THE UNAUTHORIZED DISCLOSURE OF INTELLIGENCE IDENTITIES WOULD STIFLE DISCUSSION OF IMPORTANT INTELLIGENCE AND FOREIGN POLICY ISSUES. THIS SIMPLY IS NOT SO. IDENTITIES LEGISLATION IS NOT DESIGNED TO FORESTALL CRITICISM OF INTELLIGENCE ACTIVITIES, PREVENT THE EXPOSURE OF WRONGDOING, OR "CHILL" PUBLIC DEBATE ON INTELLIGENCE AND FOREIGN POLICY MATTERS. RATHER, SUCH LEGISLATION WOULD PROTECT A NARROW, ESSENTIAL ELEMENT OF OUR NATION'S FOREIGN INTELLIGENCE PROGRAMS FOR WHICH THE CONGRESS APPROPRIATES TAXPAYER DOLLARS YEAR AFTER YEAR. IN THIS

REGARD, IT IS IMPORTANT TO RECALL THAT VIRTUALLY ALL OF THE

LEGITIMATE OFFICIAL AND UNOFFICIAL EXAMINATIONS OF INTELLIGENCE

ACTIVITIES WHICH HAVE TAKEN PLACE OVER THE PAST SEVERAL YEARS HAVE

BEEN ACCOMPLISHED WITHOUT THE REVELATION OF INTELLIGENCE

IDENTITIES OF THE KIND WE ARE SEEKING TO PROTECT. EXTENSIVE

PUBLIC AND CONGRESSIONAL SCRUTINY AND CRITICISM OF INTELLIGENCE

ACTIVITIES HAS TAKEN PLACE WITHOUT RECOURSE TO WHOLESALE

DISCLOSURE OF THE NAMES OF INTELLIGENCE PERSONNEL. MR.

CHAIRMAN, IDENTITIES LEGISLATION IS DESIGNED TO DISCOURAGE

ACTIVITY THAT THREATENS THE VERY LIFELOOD OF OUR NATION'S

INTELLIGENCE APPARATUS. I URGE THE COMMITTEE TO EXAMINE

CLOSELY THE CLAIMS OF THOSE WHO CONTEND THAT THERE ARE

LEGITIMATE REASONS FOR THE UNAUTHORIZED DISCLOSURE OF

INTELLIGENCE IDENTITIES AND THAT SUCH DISCLOSURES ARE IN THE

PUBLIC INTEREST. THESE CLAIMS ARE WITHOUT MERIT AND MUST BE

REJECTED WHEN WEIGHED AGAINST REAL AND CERTAIN DAMAGE TO THE

NATIONAL INTEREST.

ANOTHER SERIOUS MISCONCEPTION WHICH HAS ARISEN IN

CONNECTION WITH THE DEBATE OVER IDENTITIES LEGISLATION IS THE

CONTENTION THAT SUCH A STATUTE WOULD PREVENT LEGITIMATE "WHISTLE-BLOWING" BY INDIVIDUALS WHOSE INTENT IS TO EXPOSE ALLEGED ILLEGALITY OR IMPROPRIETY. A PROPERLY DRAFTED STATUTE WILL HAVE NO SUCH EFFECT. PROVISION CAN BE MADE TO ENSURE THAT THE TRANSMITTAL OF INFORMATION TO THE HOUSE AND SENATE INTELLIGENCE COMMITTEES IS NOT COVERED BY THE STATUTE'S PROHIBITIONS, AND WE SUPPORT LANGUAGE SUCH AS THAT CONTAINED IN SUBSECTION 502(D) OF S. 2216. IDENTITIES LEGISLATION, THEREFORE, NEED NOT IMPACT AT ALL ON THOSE WHOSE LEGITIMATE PURPOSE IS TO REPORT ALLEGED WRONGDOING.

STILL ANOTHER MISCONCEPTION IS THE CONTENTION THAT PASSAGE OF IDENTITIES LEGISLATION WOULD SPELL THE END OF EFFORTS TO ENACT COMPREHENSIVE INTELLIGENCE CHARTER LEGISLATION. IT HAS BEEN SUGGESTED THAT THE INTELLIGENCE COMMUNITY WOULD LOSE INTEREST IN A COMPREHENSIVE CHARTER IF AN IDENTITIES BILL WERE TO BE ENACTED SEPARATELY. MR. CHAIRMAN, THE COMMITMENT OF THE INTELLIGENCE COMMUNITY TO COMPREHENSIVE CHARTER LEGISLATION IS WELL KNOWN AND HAS BEEN STATED OFTEN. I STATE IT AGAIN BEFORE YOU TODAY. WE

SINCERELY REGRET THAT IT WAS NOT POSSIBLE TO PROCEED WITH A FULL CHARTER BILL THIS YEAR. THE INTELLIGENCE COMMUNITY'S INTEREST IN CHARTER LEGISLATION WILL NOT EVAPORATE UPON PASSAGE OF A SEPARATE IDENTITIES BILL. IDENTITIES LEGISLATION IS URGENTLY NEEDED AND SHOULD PROCEED ON ITS OWN MERIT. IT MUST NOT BE HELD HOSTAGE TO COMPREHENSIVE CHARTER LEGISLATION.

MR. CHAIRMAN, I WOULD LIKE NOW TO DISCUSS HOW IDENTITIES LEGISLATION CAN BE STRUCTURED SO AS TO EFFECTIVELY PROSCRIBE THE MOST DAMAGING UNAUTHORIZED DISCLOSURES WITHOUT IMPAIRING THE RIGHTS OF AMERICANS OR INTERFERING WITH CONGRESSIONAL OVERSIGHT.

CONGRESS SHOULD ENACT LEGISLATION WHICH WILL FULLY REMEDY THE PROBLEMS WE FACE. PASSAGE OF A STATUTE THAT IS TOO LIMITED IN ITS COVERAGE, THAT COULD BE EASILY CIRCUMVENTED, OR WHICH WOULD GO UNENFORCED BECAUSE OF UNMEETABLE BURDENS OF PROOF WOULD BE COUNTER-PRODUCTIVE. SUCH A STATUTE WOULD GIVE THE IMPRESSION OF SOLVING THE PROBLEM WITHOUT ACTUALLY DOING SO.

LEGISLATION IN THIS AREA SHOULD, FIRST OF ALL, HOLD CURRENT AND FORMER GOVERNMENT EMPLOYEES AND OTHERS WHO HAVE HAD AUTHORIZED

ACCESS TO CLASSIFIED IDENTITIES INFORMATION TO A HIGHER STANDARD

THAN PERSONS WHO HAVE NOT HAD SUCH ACCESS. SUCH INDIVIDUALS,

BECAUSE OF THEIR EMPLOYMENT RELATIONSHIPS OR OTHER POSITIONS OF

TRUST, CAN LEGITIMATELY BE HELD ACCOUNTABLE FOR THE DELIBERATE

DISCLOSURE OF ANY IDENTITY THEY KNOW, OR HAVE REASON TO KNOW, IS

PROTECTED BY THE UNITED STATES.

WITH REGARD TO SUCH INDIVIDUALS, THE LEGISLATION SHOULD

REQUIRE PROOF THAT A DISCLOSURE IS MADE WITH CULPABLE KNOWLEDGE,

OR WITH KNOWLEDGE OF SUFFICIENT FACTS TO MAKE THE AVERAGE PERSON

AWARE OF THE NATURE AND GRAVITY OF HIS ACTIONS. THIS IS AN

IMPORTANT ELEMENT BECAUSE IT MUST DESCRIBE A STATE OF MIND WHICH

WILL SUPPORT THE ATTACHMENT OF CRIMINAL SANCTIONS, AND AT THE

SAME TIME BE CAPABLE OF PROOF IN THE KINDS OF DISCLOSURE CASES

WHICH HAVE BEEN DAMAGING. IF A PERSON WITH AUTHORIZED ACCESS

DISCLOSES INFORMATION KNOWING THAT IT IDENTIFIES AN INTELLI-

GENCE OFFICER UNDER COVER, THAT PERSON SHOULD BE CONSIDERED

TO HAVE ACTED WITH CULPABLE KNOWLEDGE. THE KNOWLEDGE FORMU-

LATION MUST NOT BE SO DIFFICULT OF PROOF AS TO RENDER THE

STATUTE USELESS. WE WOULD OPPOSE, THEREFORE, ANY REQUIREMENT SUCH AS THE ONE CONTAINED IN REPRESENTATIVE ASPIN'S BILL, H.R. 6820, FOR THE GOVERNMENT TO PROVE THAT THE SPECIFIC INFORMATION DISCLOSED WAS ACQUIRED DURING THE COURSE OF THE INDIVIDUAL'S OFFICIAL DUTIES.

SECONDLY, WE BELIEVE IT IS ESSENTIAL THAT INDIVIDUALS WHO CONSPIRE WITH OR ACT AS ACCOMPLICES OF PERSONS HAVING AUTHORIZED ACCESS TO CLASSIFIED IDENTITIES INFORMATION NOT ESCAPE RESPONSIBILITY FOR THEIR ACTIONS. THUS, THE LEGISLATION SHOULD NOT NEGATE THE NORMAL APPLICABILITY OF THE GENERAL FEDERAL ACCOMPLICE AND CONSPIRACY STATUTES.

MR. CHAIRMAN, A STATUTE IN THIS AREA, IF IT IS TO BE EFFECTIVE, MUST ALSO COVER THOSE WHO HAVE NOT HAD AN EMPLOYMENT OR OTHER RELATIONSHIP OF TRUST WITH THE UNITED STATES INVOLVING AUTHORIZED ACCESS TO CLASSIFIED IDENTITIES INFORMATION. THE IDENTITIES PROVISIONS IN S. 2284 AS INTRODUCED, IN SENATOR BENTSEN'S S. 191, AND IN REPRESENTATIVE ASPIN'S H.R. 6820 ARE SERIOUSLY DEFICIENT, BECAUSE THEY OMIT THIS BROADER COVERAGE.

ADDITIONAL SAFEGUARDS ARE IN ORDER WITH RESPECT TO THE
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BROADER COVERAGE WHICH IS SOUGHT BY THE ADMINISTRATION. THE APPROACH CONTAINED IN SECTION 501(B) OF THE PROPOSED IDENTITIES LEGISLATION IN S. 2216 WOULD NECESSITATE, IN ADDITION TO THE REQUIREMENTS APPLICABLE TO INDIVIDUALS WHO HAVE HAD AUTHORIZED ACCESS, THAT INDIVIDUALS WHO HAVE NOT HAD SUCH ACCESS ACT "WITH THE INTENT TO IMPAIR OR IMPEDE THE FOREIGN INTELLIGENCE ACTIVITIES OF THE UNITED STATES." THIS FORMULATION WOULD MAKE POSSIBLE PROSECUTION OF THOSE WHO SEEK TO DESTROY THE INTELLIGENCE CAPABILITIES OF THE UNITED STATES, WHILE LEAVING UNTOUCHED ANYONE WHO MAKES A DISCLOSURE WITHOUT THE REQUISITE INTENT.

THE ADMINISTRATION PROPOSAL DRAFTED BY THE DEPARTMENT OF JUSTICE, ON THE OTHER HAND, WOULD COVER PERSONS WHO HAVE NOT HAD AUTHORIZED ACCESS TO CLASSIFIED IDENTITIES INFORMATION IN A DIFFERENT WAY. SUCH PERSONS WOULD BE COVERED IF THEY DISCLOSE A PROTECTED IDENTITY "WITH THE KNOWLEDGE THAT SUCH DISCLOSURE IS BASED ON CLASSIFIED INFORMATION." THIS FORMULATION COULD COVER THE MOST EGREGIOUS CURRENT CASES, SUCH AS THE DISCLOSURES BY COVERT ACTION INFORMATION BULLETIN, BUT ONLY IF THE USE OF CRIMINAL

INVESTIGATIVE TECHNIQUES PROVIDED SUFFICIENT PROOF THAT THE
DISCLOSURES WERE BASED ON CLASSIFIED INFORMATION.

MR. CHAIRMAN, THE SUGGESTION HAS BEEN MADE THAT CRIMINAL
PENALTIES FOR THE UNAUTHORIZED DISCLOSURE OF INTELLIGENCE IDENTITIES
SHOULD APPLY ONLY WHEN THERE IS ACTUAL INJURY TO THE INDIVIDUAL WHOSE
IDENTITY IS REVEALED, OR WHERE THE REVELATION COULD REASONABLY BE
EXPECTED TO JEOPARDIZE THE INDIVIDUAL'S SAFETY. WE STRONGLY OPPOSE
SUCH A LIMITATION. WHILE THE PERSONAL SAFETY OF OUR OFFICERS AND
SOURCES IS A VERY IMPORTANT CONSIDERATION IN OUR PURSUIT OF THIS
LEGISLATION, WE ARE ALSO CONCERNED ABOUT THE MAINTENANCE OF AN
EFFECTIVE INTELLIGENCE APPARATUS. UNAUTHORIZED DISCLOSURES OF
INTELLIGENCE IDENTITIES DAMAGE INTELLIGENCE CAPABILITIES, AND
CRIMINAL PENALTIES SHOULD APPLY REGARDLESS OF WHETHER THE PARTICULAR
INDIVIDUAL WHOSE IDENTITY IS REVEALED IS PHYSICALLY HARMED OR
IMMEDIATELY THREATENED BY THE DISCLOSURE.

MR. CHAIRMAN, THERE IS A PRESSING NEED FOR EFFECTIVE LEGISLATION TO DISCOURAGE UNAUTHORIZED DISCLOSURES OF INTELLIGENCE IDENTITIES. THE CREDIBILITY OF OUR COUNTRY IN ITS RELATIONSHIPS WITH FOREIGN INTELLIGENCE SERVICES AND AGENT SOURCES, THE PERSONAL SAFETY AND WELL-BEING OF PATRIOTIC AMERICANS SERVING THEIR COUNTRY, AND THE PROFESSIONAL EFFECTIVENESS AND MORALE OF OUR COUNTRY'S INTELLIGENCE OFFICERS ARE ALL AT STAKE.

AS MATTERS NOW STAND THE IMPUNITY WITH WHICH PROTECTED INTELLIGENCE IDENTITIES MAY BE EXPOSED IMPLIES A GOVERNMENTAL POSITION OF NEUTRALITY. IT SUGGESTS THAT U.S. INTELLIGENCE OFFICERS ARE "FAIR GAME" FOR THOSE MEMBERS OF THEIR OWN SOCIETY WHO TAKE ISSUE WITH THE EXISTENCE OF CIA OR FIND OTHER PERVERSE MOTIVES FOR MAKING THESE UNAUTHORIZED DISCLOSURES. SPECIFIC STATUTORY PROHIBITION OF SUCH ACTIVITY IS CRITICAL TO THE MAINTENANCE OF AN EFFECTIVE FOREIGN INTELLIGENCE SERVICE. IT IS IMPERATIVE THAT A MESSAGE BE SENT THAT THE UNAUTHORIZED DISCLOSURE OF INTELLIGENCE IDENTITIES IS INTOLERABLE.

I SINCERELY APPRECIATE YOUR GENUINE CONCERN ABOUT OUR

INTELLIGENCE CAPABILITIES AND WHOLEHEARTEDLY SUPPORT YOUR EFFORTS
TO DEAL WITH THIS SERIOUS PROBLEM. I ENCOURAGE YOU TO PROCEED TO
REPORT LEGISLATION THAT WILL PROVIDE AN EFFECTIVE REMEDY.